

Appl. No. 10/672,645
Amdt. dated Dec 23, 2005
Reply to Office action Dated June 21, 2005 /Mailed Oct 12, 2005

REMARKS/ARGUMENTS

Claims 6 and 13 have been canceled to obviate the examiners objection to the drawings regarding the recitation of "a third cover member connected with a bearing to the first or second member".

Claims 4 and 11 have been canceled to obviate the examiners objection.

Claims 5 and 12 have been canceled to obviate the examiners objection and rejection under 35 USC § 112

Claim 1 was modified as shown below.

Claim 1 (currently amended): A wheel cover for a vehicle comprising;
an inner member with attachment mechanism for connecting the inner member to the annular portion of a vehicle rim,
~~at a homogeneous~~ least one outer member that is not eccentrically weighted, and located on the outer side of the inner member away from the vehicle rim wherein the entire outer facing surface of the homogeneous outer member that is not secured to the vehicle rim is visible,
the homogeneous outer member connects to a bearing mechanism that connects the inner member to the outer member to allow the members to turn independently from each other.

These changes identify that the inner member attaches to the annular portion of a vehicle rim and that the outer member is a homogeneous member. These changes are supported in the specifications and figures.

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Claim 8 was modified as shown below.

Claim 8 (currently amended) A wheel cover for a vehicle comprising:

a first member with attachment mechanism for connecting the first member to the annular portion of a vehicle rim,

a bearing mechanism connected to at least a part of the first member and the bearing mechanism is connected to at least a part of a homogeneous second member where;

the homogeneous second member is located outside the first member away from the vehicle rim and the entire outer facing surface of the homogeneous outer member that is not secured to the vehicle rim is visible,

the homogeneous second member can spin or turn independent from the first member, and,

at least a portion of the rotational inertia from the first member turning is transferred to the homogeneous second member.

These changes identify that the inner member attaches to the annular portion of a vehicle rim and that the outer member is a homogeneous member.

These changes are supported in the specifications and figures.

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Novelty (35 USC § 102)

The Office considers claims 1, 5, 7-9 and 14 rejected under 35 U.S.C.

102(e)(1) as being anticipated by Good (US 2004/0075332 A1).

A rejection under 35 U.S.C. 102(e)(1) is:

(e) the invention was described in - (1) an application for patent, published under **section 122(b)**, by another filed in the United States before the invention by the applicant for patent

The applicant's application was filed on September 26, 2003.

Good (US 2004/0075332 A1) was first published on April 22, 2004 and was filed on October 14, 2003. Both the filing date and the first published date are after the filing date of the applicant's application.

In the examiners reply, the examiner states that "Good patent goes back to July 24, 2002 which predates the filing date of September 26, 2003 of the current application."

MPEP 706.02 § V (B) states:

If the application is a continuation-in-part of an earlier U.S. application or International application, any claims in the new application not supported by the specification and claims of the parent application have an effective filing date equal to the filing date of the new application. Any claims which are fully supported under 35 U.S.C. 112 by the earlier parent application have the effective filing date of that earlier parent application.

The Good application filed on July 24, 2002 discloses an attachment to the vehicle with the lug nuts and does not disclose attachment to the annular rim portion of a vehicle. There is no support in Good under 35 USC § 112 to utilize the filing date of the Good application 10/201,295 to reject the pending application because the connection mechanism to the rim of the vehicle is not supported in Good '295 application. Emphasis added

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The Office considers claims 1, 4, 7-9, 11 and 14 rejected under 35 U.S.C. 102(e)(1) as being anticipated by Wang (6,702,396).

A rejection under 35 U.S.C. 102(e)(1) is:

(e) the invention was described in - (1) an application for patent, published under **section 122(b)**, by another filed in the United States before the invention by the applicant for patent

The Wang patent '396 discloses that the outer turning components consist of a turning disk 6 that connects to bearing 481. The turning disk 6 then has a wing plate 8 attached to the turning disk 6 with screw member 61. The pending application provides that the outer turning component that is connected to the bearing is a homogeneous member, whereas the outer turning components in Wang '396 are disclosed, claimed and constructed from multiple pieces.

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Obviousness (35 USC § 103(a))

The examiner has rejected Claims 2, 5-6, 9 12-13 under 35 U.S.C. 103(a) as being unpatentable over Wang (6,702,396) in view of Wallach (US 6,820,475).

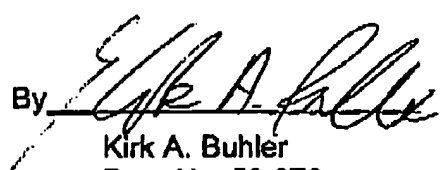
The office considers claims 3 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (6,702,396) in view of Miyanaga (US 3,367,722) patent.

Claims 2, 4-6, 9 11-13 are not obvious based upon the changes made to claims 1 and 8 by virtue of their dependence on independent claims 1 and 8.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
BUHLER & ASSOCIATES

By


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